

REMARKS

Re-examination and allowance of the present application is respectfully requested.

Initially, Applicant thanks the Examiner for acknowledging the claim for foreign priority, and for indicating that the certified copy of the priority document has been received. Applicant also thanks the Examiner for returning a completed copy of the PTO-1449 Form that accompanied the Information Disclosure Statement filed on April 23, 2004 to confirm consideration of the material cited therein.

However, the Examiner has not indicated the acceptability of the drawings filed in the application. Absent an indication to the contrary in the next official communication, Applicant believes that the drawings filed in this application are acceptable.

Applicant also thanks the Examiner for indicating that claims 1-3 and 7-12 are allowable over the art of record, and that claims 5 and 6 would additionally be allowable if a double patenting rejection of claim 4 is overcome. In this regard, Applicant herewith makes certain minor amendments to the claims in order to place them in better U.S. form. Applicant submits that these amendments do not affect the scope of the claims, and hence, do not change their indicated allowability. The Examiner is thus respectfully requested to re-confirm the allowability of the pending claims.

Claim 4 stands provisionally rejected under the judicially created doctrine of non-statutory double patenting over claim 19 of co-pending U.S. Patent Application No. 10/763,200. Applicant respectfully traverses this ground of rejection.

Applicant submits that it is inappropriate to require the filing of a terminal disclaimer in the present application on the ground that the scope of claim 19 in co-pending application 10/763,200 (relied upon by the Examiner to reject claim 4 in the present application) has not been finally determined. Co-pending application 10/763,200 has not yet been examined, and thus, the scope of the claims therein are not yet defined. Claim 19 in co-pending application 10/763,200 could be amended during the course of prosecution, or even canceled, which would negate the provisional double patenting rejection of claim 4 in the present application. Accordingly, Applicant submits it is premature to assert that claim 4 of the present application and claim 19 of co-pending application 10/763,200 define the same invention.

In this regard, a judicially created double patenting rejection can be overcome by submitting a terminal disclaimer. A terminal disclaimer need only be filed in one application; e.g., either in the present application or in co-pending application 10/763,200. However, because co-pending application 10/763,200 has not yet been examined, while the claims in the present application have been determined to be allowable (but for the double patenting issue of claim 4), it is likely that the present application would issue as a patent before the scope of the

claims in co-pending application 10/763,200 are finally determined. Accordingly, Applicant submits that the proper action for the U.S. Patent and Trademark Office to take is to promptly pass the present application (including claim 4) to issue as a patent, and then have the Examiner that examines co-pending application 10/763,200 make a determination as to whether a double patenting rejection is appropriate in that application.

In view of the above remarks, Applicant respectfully requests that the provisional double patenting rejection of claim 4 be withdrawn from the present application, and that the present application be passed to issue.

SUMMARY

In view of the fact that the art of record fails to disclose or even suggest Applicant's invention, as defined by the pending claims, Applicant believes the present application to be in condition for allowance.

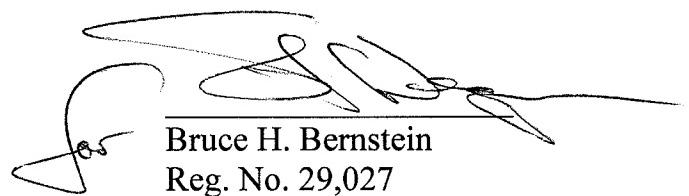
Any amendments to the claim which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should it be determined that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. §1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The

Commissioner is authorized to charge any required extension of time fee under 37 C.F.R. §1.17 to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is requested to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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